IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 50594-M of 2006

DATE OF DECISION : 28.08.2006

Ramdev Patel

.... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Ms. Upasana Gupta, Advocate,
for the petitioner.

* * *

This is third petition filed by the petitioner for the grant of regular bail in case FIR No. 105 dated 27.5.2004 registered with Police Station Divison No.6, Ludhiana, under Sections 20/61/85 of the NDPS Act. The earlier petitions filed by him were dismissed on 18.11.2004 and 11.2.2005.

I have heard counsel for the petitioner and gone through the contents of the FIR.

In this case, 1 Kg. 20 grams of charas was allegedly recovered from the possession of the petitioner on the spot. Counsel for the petitioner contends that as per the report of the Chemical Examiner, the contents of resin were only 37.5 %, which means that the recovered charas was only 383.50 grams and this quantity falls under the category of non-commercial. Therefore, according to the counsel for the petitioner, bail should be granted to the petitioner. In support of her contention, she relied upon a decision of Delhi High Court in ***Ansar Ahmed*** v. ***State (Govt. of NCT of Delhi),*** 2005 (4) RCR (Criminal) 393. This judgment pertains to the recovery of heroin and in that case, as per the report of the Chemical Examiner, content of diacetylmorphine (heroin) was 2.5% and it was held that from the recovery of one Kg. of brown sugar, the actual weight of content of heroin comes to be 2.5 grams, which is less than small quantity. As such, bail was granted.

After hearing counsel for the parties, I do not find any ground to follow the aforesaid judgment in the instant case, where even as per the report of the Chemical Examiner, the weight of recovered charas falls under non-commercial category. Even otherwise, earlier also, this argument was raised, which was not accepted by this Court.

Dismissed.

However, the trial court is directed to conclude the trial expeditiously, preferably within a period of nine months.

August 28, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**